

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, *ex rel.*
State Engineer

Plaintiff,

vs.

ROMAN ARAGON, *et al.*,

Defendants.

6:69cv07941-BB

RIO CHAMA STREAM SYSTEM

**NOTICE OF SEARCH COMMITTEE'S RECOMMENDATION OF SPECIAL MASTER
CANDIDATES AND SUBMISSION OF PROPOSED ORDER OF REFERENCE**

Pursuant to the Court's July 21, 2011 *Order* (Doc. No. 10524) and Fed. R. Civ. Pro 53(b)(1), the State of New Mexico and the United States hereby recommend two candidates for the position of Special Master in this case, and submit a proposed order of reference to the Court.

Effective June 30, 2011, Special Master Vickie L. Gabin resigned her position as Special Master in this case, as well as in State v. Abbott, 68cv07488, and United States v. A&R Productions, 01cv72 and its member case 07cv681 ("Cases"). On June 8, 2011 (Doc. No. 10155) the Court ordered that any parties that wished to suggest a candidate for the position file a notice indicating that they intend to do so. On June 22, 2011, the State of New Mexico ("State") filed its *Notice and Suggestion for Procedures for Appointment of Special Master* (Doc. No. 10169), proposing that rather than simply accept suggestions for a candidate, the Court instead form a committee of parties to advertise, review applications, conduct interviews, draft a proposed order of reference, and recommend a candidate to the court. On July 21, 2011, the Court entered its

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Order (Doc. No. 10524) declining to appoint specific parties to a Special Master search committee, but providing that “interested parties are free to form a committee to identify and recommend candidates and to submit a proposed order of reference to the Court.”

Counsel for the State and the United States developed an advertisement for the position of Special Master which was sent to counsel of record in the Cases for review. The ad was placed with the New Mexico Bar Bulletin, and was published in its December 28, 2011, January 4, 2012 and January 12, 2012 editions. A copy of the ad is attached as Exhibit A. Thirteen applications for the position were received. Counsel for the State and the United States reviewed the applications and attached writing samples, and identified eight candidates for face-to-face interviews.

Counsel of record in the Cases were notified of the identification of candidates and the dates and times of the schedule of interviews. Mary Humphrey and Connie Ode, as counsel for the Truchas Acequias in the Santa Cruz & Truchas adjudication and for various acequias in the Chama adjudication; Susan Kery, as counsel for the Acequias Nortenas in the Chama adjudication; and Jane Marx, counsel for the Zuni Indian Tribe, joined counsel for the State and the United States in conducting interviews of the eight candidates during late February and early March. Fred Vigil, of the Rio Chama Acequia Association, also participated telephonically in the interview of one of the candidates.

Counsel who had participated in the interviews met again by telephone on March 20, 2011 to discuss the candidates, and agreed to unanimously recommend the Honorable Michael C. Nelson (retired), of Phoenix, Arizona, and Sue Anne Herrmann, of Santa Fe, New Mexico, to the Court as candidates for the position of Special Master in the Cases. Resumes for the candidates and writing samples will be provided to the Court along with an affidavit disclosing whether there

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are any grounds for disqualification under 28 U.S.C. 455 as required by Rule 53(a)(2).

The committee all agree that either of these two candidates could serve as Special Master in any or all of the Cases. Counsel for the State respectfully suggest that the Court appoint two Special Masters, one to serve on the Zuni adjudication and its member case, and one to serve on the other two cases. Counsel for the United States respectfully suggests that the Court appoint one candidate to be Special Master for all three cases. All counsel in the committee recommend, however, that the Special Master be appointed to serve over both Indian and non-Indian claims in whichever adjudication or adjudications to which he or she may be assigned.

A proposed *Order of Reference* is attached hereto as Exhibit B.

Respectfully submitted,

/s/ Arianne Singer
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 16th day of April, 2012 I filed the foregoing electronically through the CM/ECF system which caused the parties on the electronic service list, as more fully set forth in the Notice of Electronic Filing, to be served via electronic mail.

/s/ Arianne Singer

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